

Union Calendar No. 594

99TH CONGRESS
2D SESSION**H. R. 5540****[Report No. 99-908, Part I]**

To encourage good faith professional review activities of health care entities, to require collection and dissemination to hospitals and other health care providers of information concerning certain payments in medical malpractice claims and certain adverse decisions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 17, 1986

Mr. WYDEN (for himself, Mr. WAXMAN, Mr. MADIGAN, and Mr. TAUKE) introduced the following bill; which was referred to the Committee on Energy and Commerce

SEPTEMBER 26, 1986

Reported from the Committee on Energy and Commerce and referred to the Committee on the Judiciary for a period ending not later than October 3, 1986 for consideration of such provisions of the bill and amendments as fall within the jurisdiction of that committee pursuant to clause of rule X and ordered to be printed

OCTOBER 3, 1986

Referral to the Committee on the Judiciary extended for an additional period ending not later than October 8, 1986

OCTOBER 8, 1986

Referral to the Committee on the Judiciary extended for an additional period ending not later than 12 noon October 14, 1986

OCTOBER 14, 1986

Committee on the Judiciary discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To encourage good faith professional review activities of health care entities, to require collection and dissemination to hospitals and other health care providers of information concerning certain payments in medical malpractice claims and certain adverse decisions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Health Care Quality Improvement Act of 1986”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

TABLE OF CONTENTS

TITLE I—PROMOTION OF PROFESSIONAL REVIEW ACTIVITIES

- Sec. 101. Professional review.
- Sec. 102. Standards for professional review actions.
- Sec. 103. Payment of reasonable attorneys’ fees and costs in defense of suit.
- Sec. 104. Guidelines of the Secretary.
- Sec. 105. Construction.
- Sec. 106. Effective date.

TITLE II—REPORTING OF INFORMATION

- Sec. 201. Requiring reports on medical malpractice payments.
- Sec. 202. Reporting of sanctions taken by boards of medical examiners.
- Sec. 203. Reporting of certain professional review actions taken by health care entities.
- Sec. 204. Form of reporting.
- Sec. 205. Duty of hospitals to obtain information.
- Sec. 206. Disclosure and correction of information.
- Sec. 207. Miscellaneous provisions.

TITLE III—DEFINITIONS AND REPORTS

- Sec. 301. Definitions.
- Sec. 302. Reports and memoranda of understanding.

TITLE I—PROMOTION OF PROFESSIONAL
REVIEW ACTIVITIES

SEC. 101. PROFESSIONAL REVIEW.

(a) IN GENERAL.—

(1) LIMITATION ON DAMAGES FOR PROFESSIONAL REVIEW ACTIONS.—If a professional review action (as defined in section 301(9)) of a professional review body meets the standards specified in section 102(a), except as provided in subsection (b)—

(A) the professional review body,

(B) any person acting as a member or staff to the body,

(C) any person under a contract or other formal agreement with the body, and

(D) any person who participates with or assists the body with respect to the action, shall not be liable in damages under any law of the United States or of any State (or political subdivision thereof) with respect to the action.

(2) PROTECTION FOR THOSE PROVIDING INFORMATION TO PROFESSIONAL REVIEW BODIES.—Notwithstanding any other provision of law, no person (whether as a witness or otherwise) providing information to a professional review body regarding the competence or professional conduct of a physician shall be

1 held, by reason of having provided such information, to
2 be liable in damages under any law of the United
3 States or of any State (or political subdivision thereof)
4 unless such information is false and the person provid-
5 ing it knew that such information was false.

6 (b) EXCEPTION.—If the Secretary has reason to believe
7 that a health care entity has failed to report information in
8 accordance with section 203(a), the Secretary shall conduct
9 an investigation. If, after providing notice of noncompliance,
10 an opportunity to correct the noncompliance, and an opportu-
11 nity for a hearing, the Secretary determines that a health
12 care entity has failed substantially to report information in
13 accordance with section 203(a), the Secretary shall suspend
14 or disqualify the entity from the protections provided under
15 subsection (a)(1). Such suspension or disqualification shall be
16 effective with respect to professional review actions com-
17 menced on or after the date of such suspension or disqualifi-
18 cation for a period of not longer than 3 years.

19 **SEC. 102. STANDARDS FOR PROFESSIONAL REVIEW ACTIONS.**

20 (a) IN GENERAL.—The standards of this subsection,
21 with respect to a professional review action, are that the
22 action is taken—

23 (1) in the reasonable belief that the action was in
24 the furtherance of quality health care,

1 (2) after a reasonable effort to obtain the facts of
2 the matter,

3 (3) after adequate due process to the physician in-
4 volved, and

5 (4) in the reasonable belief that the action was
6 warranted by the facts known after such reasonable
7 effort to obtain facts and after such due process.

8 A professional review action is presumed to have been taken
9 in the reasonable belief that it was in the furtherance of qual-
10 ity health care unless it is shown, by clear and convincing
11 evidence, to the contrary.

12 (b) ADEQUATE DUE PROCESS PROCEDURES.—A
13 health care entity is deemed to have met the requirement of
14 subsection (a)(3) with respect to a physician if the following
15 conditions are met (or are waived voluntarily by the
16 physician):

17 (1) NOTICE OF PROPOSED ACTION.—The physi-
18 cian has been given notice stating—

19 (A)(i) that a professional review action has
20 been proposed to be taken against the physician,

21 (ii) reasons for the proposed action,

22 (B)(i) that the physician has the right to re-
23 quest a hearing on the proposed action,

24 (ii) any time limit (of not less than 10 days)
25 within which to request such a hearing, and

1 (C) a summary of the rights in the hearing
2 under paragraph (3).

3 (2) NOTICE OF HEARING.—If a hearing is re-
4 quested on a timely basis under paragraph (1)(B), the
5 physician involved must be given notice stating—

6 (A) the place, time, and date, of the hearing,
7 which date shall not be less than 10 days after
8 the date of the notice, and

9 (B) a list of the witnesses (if any) expected to
10 testify at the hearing on behalf of the professional
11 review body.

12 (3) CONDUCT OF HEARING AND NOTICE.—If a
13 hearing is requested on a timely basis under paragraph
14 (1)(B)—

15 (A) subject to subparagraph (B), the hearing
16 shall be held (as determined by the health care
17 entity)—

18 (i) before an arbitrator mutually accept-
19 able to the physician and the health care
20 entity,

21 (ii) before a hearing officer who is ap-
22 pointed by the entity and who is not in direct
23 economic competition with the physician in-
24 volved, or

1 (iii) before a panel of individuals who
2 are appointed by the entity and are not in
3 direct economic competition with the physi-
4 cian involved;

5 (B) the right to the hearing may be forfeited
6 if the physician fails, without good cause, to
7 appear;

8 (C) in the hearing the physician involved has
9 the right—

10 (i) to representation by an attorney or
11 other person of the physician's choice,

12 (ii) to have a record made of the pro-
13 ceedings, copies of which may be obtained by
14 the physician upon payment of any reasona-
15 ble charges associated with the preparation
16 thereof,

17 (iii) to call, examine, and cross-examine
18 witnesses,

19 (iv) to present evidence determined to
20 be relevant by the hearing officer, regardless
21 of its admissibility in a court of law, and

22 (v) to submit a written statement at the
23 close of the hearing; and

24 (D) upon completion of the hearing, the phy-
25 sician involved has the right—

1 (i) to receive the written recommenda-
2 tion of the arbitrator, officer, or panel, in-
3 cluding a statement of the basis for the rec-
4 ommendations, and

5 (ii) to receive a written decision of the
6 health care entity, including a statement of
7 the basis for the decision.

8 A professional review body's failure to meet the conditions
9 described in this subsection shall not, in itself, constitute fail-
10 ure to meet the standards of subsection (a)(3).

11 (c) DUE PROCESS IN INVESTIGATIONS OR HEALTH
12 EMERGENCIES.—For purposes of section 101(a), nothing in
13 this section shall be construed as—

14 (1) requiring the due process referred to in subsec-
15 tion (a)(3)—

16 (A) where there is no adverse professional
17 review action taken, or

18 (B) in the case of a suspension or restriction
19 of clinical privileges, for a period of not longer
20 than 14 days, during which an investigation is
21 being conducted to determine the need for a pro-
22 fessional review action; or

23 (2) precluding an immediate suspension or restric-
24 tion of clinical privileges, subject to subsequent due
25 process procedures, where the failure to take such an

1 action may result in an imminent danger to the health
2 of any individual.

3 **SEC. 103. PAYMENT OF REASONABLE ATTORNEYS' FEES AND**
4 **COSTS IN DEFENSE OF SUIT.**

5 In any suit brought against a defendant, to the extent
6 that section 101 applies with respect to the defendant and
7 the defendant substantially prevails, the court may, in its dis-
8 cretion, award the defendant reasonable attorneys' fees plus
9 costs in defense of the suit and the court may not award
10 attorneys' fees or costs to the plaintiff unless the court deter-
11 mines, in its discretion, that the awarding of reasonable attor-
12 neys' fees or costs is appropriate.

13 **SEC. 104. GUIDELINES OF THE SECRETARY.**

14 The Secretary may establish, after notice and opportuni-
15 ty for comment, such voluntary guidelines as may assist the
16 professional review bodies in meeting the standards described
17 in section 102(a).

18 **SEC. 105. CONSTRUCTION.**

19 (a) **IN GENERAL.**—Except as specifically provided in
20 this title, nothing in this title shall be construed as changing
21 the liabilities or immunities under law.

22 (b) **SCOPE OF CLINICAL PRIVILEGES.**—Nothing in this
23 title shall be construed as requiring health care entities to
24 provide clinical privileges to any or all classes or types of
25 physicians or other licensed health care practitioners.

1 (c) TREATMENT OF NURSES AND OTHER PRACTITION-
2 ERS.—Nothing in this title shall be construed as applying, or
3 modifying any provision of Federal or State law, with respect
4 to activities of professional review bodies regarding nurses,
5 other licensed health care practitioners, or other health pro-
6 fessionals who are not physicians.

7 SEC. 106. EFFECTIVE DATE.

8 This title shall apply to professional review actions com-
9 menced on or after the date of the enactment of this Act.

10 TITLE II—REPORTING OF INFORMATION

11 SEC. 201. REQUIRING REPORTS ON MEDICAL MALPRACTICE
12 PAYMENTS.

13 (a) IN GENERAL.—Each entity (including an insurance
14 company) which makes payment under a policy of insurance,
15 self-insurance, or otherwise in settlement (or partial settle-
16 ment) of, or in satisfaction of a judgment in, a medical
17 malpractice action or claim shall report, in accordance with
18 section 204, information respecting the payment and circum-
19 stances thereof.

20 (b) INFORMATION TO BE REPORTED.—The informa-
21 tion to be reported under subsection (a) includes—

22 (1) the name of any physician or licensed health
23 care practitioner for whose benefit the payment is
24 made,

25 (2) the amount of the payment,

1 (3) the name (if known) of any hospital with
2 which the physician or practitioner is affiliated or
3 associated,

4 (4) a description of the acts or omissions and inju-
5 ries or illnesses upon which the action or claim was
6 based, and

7 (5) such other information as the Secretary deter-
8 mines is required for appropriate interpretation of infor-
9 mation reported under this section.

10 (c) SANCTIONS FOR FAILURE TO REPORT.—Any entity
11 that fails to report information on a payment required to be
12 reported under this section shall be subject to a civil money
13 penalty of not more than \$10,000 for each such payment
14 involved. Such penalty shall be imposed and collected in the
15 same manner as civil money penalties under subsection (a) of
16 section 1128A of the Social Security Act are imposed and
17 collected under that section.

18 (d) REPORT ON TREATMENT OF SMALL PAYMENTS.—
19 The Secretary shall study and report to Congress, not later
20 than two years after the date of the enactment of this Act, on
21 whether information respecting small payments should con-
22 tinue to be required to be reported under subsection (a) and
23 whether information respecting all claims made concerning a
24 medical malpractice action should be required to be reported
25 under such subsection.

1 SEC. 202. REPORTING OF SANCTIONS TAKEN BY BOARDS OF
2 MEDICAL EXAMINERS.

3 (a) IN GENERAL.—

4 (1) ACTIONS SUBJECT TO REPORTING.—Each
5 Board of Medical Examiners—

6 (A) which revokes or suspends (or otherwise
7 restricts) a physician's license or censures, reprimands, or places on probation a physician, for
8 reasons relating to the physician's professional
9 competence or professional conduct, or
10

11 (B) to which a physician's license is
12 surrendered,

13 shall report, in accordance with section 204, the information described in paragraph (2).

14 (2) INFORMATION TO BE REPORTED.—The information to be reported under paragraph (1) is—

15 (A) the name of the physician involved,

16 (B) a description of the acts or omissions or
17 other reasons (if known) for the revocation, suspension, or surrender of license, and
18

19 (C) such other information respecting the circumstances of the action or surrender as the Secretary deems appropriate.
20
21

22 (b) FAILURE TO REPORT.—If, after notice of noncompliance and providing opportunity to correct noncompliance,
23 the Secretary determines that a Board of Medical Examiners
24
25
26

1 has failed to report information in accordance with subsection
2 (a), the Secretary shall designate another qualified entity for
3 the reporting of information under section 203.

4 **SEC. 203. REPORTING OF CERTAIN PROFESSIONAL REVIEW**
5 **ACTIONS TAKEN BY HEALTH CARE ENTITIES.**

6 **(a) REPORTING BY HEALTH CARE ENTITIES.—**

7 **(1) ON PHYSICIANS.—**Each health care entity
8 which—

9 **(A)** takes a professional review action that
10 adversely affects the clinical privileges of a physi-
11 cian for a period longer than 30 days;

12 **(B)** accepts the surrender of clinical privi-
13 leges of a physician—

14 **(i)** while the physician is under an in-
15 vestigation by the entity relating to possible
16 incompetence or improper professional con-
17 duct, or

18 **(ii)** in return for not conducting such an
19 investigation or proceeding; or

20 **(C)** in the case of such an entity which is a
21 professional society, takes a professional review
22 action which adversely affects the membership of
23 a physician in the society,

1 shall report to the Board of Medical Examiners, in ac-
2 cordance with section 204(a), the information described
3 in paragraph (3).

4 (2) PERMISSIVE REPORTING ON OTHER LI-
5 CENSED HEALTH CARE PRACTITIONERS.—A health
6 care entity may report to the Board of Medical Exam-
7 iners, in accordance with section 204(a), the informa-
8 tion described in paragraph (3) in the case of a licensed
9 health care practitioner who is not a physician, if the
10 entity would be required to report such information
11 under paragraph (1) with respect to the practitioner if
12 the practitioner were a physician.

13 (3) INFORMATION TO BE REPORTED.—The infor-
14 mation to be reported under this subsection is—

15 (A) the name of the physician or practitioner
16 involved,

17 (B) a description of the acts or omissions or
18 other reasons for the action or, if known, for the
19 surrender, and

20 (C) such other information respecting the cir-
21 cumstances of the action or surrender as the Sec-
22 retary deems appropriate.

23 (b) REPORTING BY BOARD OF MEDICAL EXAMIN-
24 ERS.—Each Board of Medical Examiners shall report, in ac-
25 cordance with section 204, the information reported to it

1 under subsection (a) and known instances of a health care
2 entity's failure to report information under subsection (a)(1).

3 (c) SANCTIONS.—

4 (1) HEALTH CARE ENTITIES.—A health care
5 entity that fails substantially to meet the requirement
6 of subsection (a)(1) shall be suspended from the protec-
7 tions of section 101(a)(1), as provided in section 101(b).

8 (2) BOARD OF MEDICAL EXAMINERS.—If, after
9 notice of noncompliance and providing an opportunity
10 to correct noncompliance, the Secretary determines
11 that a Board of Medical Examiners has failed to report
12 information in accordance with subsection (b), the Sec-
13 retary shall designate another qualified entity for the
14 reporting of information under subsection (b).

15 (d) REFERENCES TO BOARD OF MEDICAL EXAMIN-
16 ERS.—Any reference in this title to a Board of Medical Ex-
17 aminers includes, in the case of a Board in a State that fails
18 to meet the reporting requirements of section 202(a) or sub-
19 section (b), a reference to such other qualified entity as the
20 Secretary designates.

21 SEC. 204. FORM OF REPORTING.

22 (a) TIMING AND FORM.—The information required to be
23 reported under sections 201, 202(a), and 203 shall be report-
24 ed regularly (but not less often than monthly) and in such
25 form and manner as the Secretary prescribes. Such informa-

tion shall first be required to be reported on a date (not later than one year after the date of the enactment of this Act) specified by the Secretary.

(b) **TO WHOM REPORTED.**—The information required to be reported under sections 201, 202(a), and 203(b) shall be reported to the Secretary, or, in the Secretary's discretion, to an appropriate private or public agency which has made suitable arrangements with the Secretary with respect to receipt, storage, protection of confidentiality, and dissemination of the information under this title.

(c) **REPORTING TO STATE LICENSING BOARDS.**—

(1) **MALPRACTICE PAYMENTS.**—Information required to be reported under section 201 shall also be reported to the appropriate State licensing board (or boards) in the State in which the medical malpractice claim arose.

(2) **REPORTING TO OTHER LICENSING BOARDS.**—Information required to be reported under section 203(b) shall also be reported to the appropriate State licensing board in the State in which the health care entity is located if it is not otherwise reported to such board under subsection (b).

SEC. 205. DUTY OF HOSPITALS TO OBTAIN INFORMATION.

(a) **IN GENERAL.**—It is the duty of each hospital to request from the Secretary (or the agency designated under

1 section 204(b)), on and after the date information is first re-
2 quired to be reported under section 204(a))—

3 (1) at the time a physician or licensed health care
4 practitioner applies to be on the medical staff (courtesy
5 or otherwise) of, or for clinical privileges at, the hospi-
6 tal, information reported under this title concerning the
7 physician or practitioner, and

8 (2) once every 2 years information reported under
9 this title concerning any physician or such practitioner
10 who is on the medical staff (courtesy or otherwise) of,
11 or has been granted clinical privileges at, the hospital.
12 A hospital may request such information at other times.

13 (b) **FAILURE TO OBTAIN INFORMATION.**—With respect
14 to a medical malpractice action, a hospital which does not
15 request information respecting a physician or practitioner as
16 required under subsection (a) is presumed to have knowledge
17 of any information reported under this title to the Secretary
18 with respect to the physician or practitioner.

19 (c) **RELIANCE ON INFORMATION PROVIDED.**—Each
20 hospital may rely upon information provided to the hospital
21 under this Act and shall not be held liable for such reliance in
22 the absence of the hospital's knowledge that the information
23 provided was false.

1 SEC. 206. DISCLOSURE AND CORRECTION OF INFORMATION.

2 With respect to the information reported to the Secre-
3 tary (or the agency designated under section 204(b)) under
4 this title respecting a physician or other licensed health care
5 practitioner, the Secretary shall, by regulation, provide for—

6 (1) disclosure of the information, upon request, to
7 the physician or practitioner, and

8 (2) procedures in the case of disputed accuracy of
9 the information.

10 SEC. 207. MISCELLANEOUS PROVISIONS.

11 (a) PROVIDING LICENSING BOARDS AND OTHER
12 HEALTH CARE ENTITIES WITH ACCESS TO INFORMA-
13 TION.—The Secretary (or the agency designated under sec-
14 tion 204(b)) shall, upon request, provide information reported
15 under this title with respect to a physician or other licensed
16 health care practitioner to State licensing boards, to hospi-
17 tals, and to other health care entities (including health main-
18 tenance organizations) that have entered (or may be entering)
19 into an employment or affiliation relationship with the physi-
20 cian or practitioner or to which the physician or practitioner
21 has applied for clinical privileges or appointment to the medi-
22 cal staff.

23 (b) CONFIDENTIALITY OF INFORMATION.—

24 (1) IN GENERAL.—Information reported under
25 this title is considered confidential and shall not be dis-
26 closed (other than to the physician or practitioner in-

1 volved) except with respect to professional review ac-
2 tivity, with respect to medical malpractice actions, or
3 in accordance with regulations of the Secretary pro-
4 mulgated pursuant to subsection (a). Nothing in this
5 subsection shall prevent the disclosure of such informa-
6 tion by a party which is otherwise authorized, under
7 applicable State law, to make such disclosure.

8 (2) PENALTY FOR VIOLATIONS.—Any person who
9 violates paragraph (1) shall be subject to a civil money
10 penalty of not more than \$10,000 for each such viola-
11 tion involved. Such penalty shall be imposed and col-
12 lected in the same manner as civil money penalties
13 under subsection (a) of section 1128A of the Social
14 Security Act are imposed and collected under that
15 section.

16 (3) USE OF INFORMATION.—Subject to paragraph
17 (1), information provided under section 205 and subsec-
18 tion (a) is intended to be used solely with respect to
19 activities in the furtherance of the quality of health
20 care.

21 (c) RELIEF FROM LIABILITY FOR REPORTING.—No
22 person or entity shall be held liable in any civil action with
23 respect to any report made under this title without knowl-
24 edge of the falsity of the information contained in the report.

1 (d) INTERPRETATION OF INFORMATION.—In interpret-
2 ing information reported under this title, a payment in settle-
3 ment of a medical malpractice action or claim shall not be
4 construed as creating a presumption that medical malpractice
5 has occurred.

6 TITLE III—DEFINITIONS AND REPORTS

7 SEC. 301. DEFINITIONS.

8 In this Act:

9 (1) The term “adversely affecting” includes reduc-
10 ing, restricting, suspending, revoking, denying, or fail-
11 ing to renew clinical privileges or membership in a
12 health care entity.

13 (2) The term “Board of Medical Examiners” in-
14 cludes a body comparable to such a Board (as deter-
15 mined by the State) with responsibility for the licensing
16 of physicians and also includes a subdivision of such a
17 Board or body.

18 (3) The term “clinical privileges” includes privi-
19 leges, membership on the medical staff, and the other
20 circumstances pertaining to the furnishing of medical
21 care under which a physician or other licensed health
22 care practitioner is permitted to furnish such care by a
23 health care entity.

24 (4)(A) The term “health care entity” means—

1 (i) a hospital that is licensed to provide
2 health care services by the State in which it is
3 located,

4 (ii) an entity (including a health maintenance
5 organization or group medical practice) that pro-
6 vides health care services and that follows a
7 formal peer review process for the purpose of fur-
8 thering quality health care (as determined under
9 regulations of the Secretary), and

10 (iii) subject to subparagraph (B), a profession-
11 al society (or committee thereof) of physicians or
12 other licensed health care practitioners that fol-
13 lows a formal peer review process for the purpose
14 of furthering quality health care (as determined
15 under regulations of the Secretary).

16 (B) The term “health care entity” does not in-
17 clude a professional society (or committee thereof) if,
18 within the previous 5 years, the society has been found
19 by the Federal Trade Commission or any court to have
20 engaged in any anti-competitive practice which had the
21 effect of restricting the practice of licensed health care
22 practitioners.

23 (5) The term “hospital” means an entity described
24 in paragraphs (1) and (7) of section 1861(e) of the
25 Social Security Act.

1 (6) The terms “licensed health care practitioner”
2 and “practitioner” mean, with respect to a State, an
3 individual (other than a physician) who is licensed or
4 otherwise authorized by the State to provide health
5 care services.

6 (7) The term “medical malpractice action or
7 claim” means a written claim or demand for payment
8 based on a health care provider’s furnishing (or failure
9 to furnish) health care services, and includes the filing
10 of a cause of action, based on the law of tort, brought
11 in any court of any State or the United States seeking
12 monetary damages.

13 (8) The term “physician” means a doctor of medi-
14 cine or osteopathy or a doctor of dental surgery or
15 medical dentistry legally authorized to practice medi-
16 cine and surgery or dentistry by a State.

17 (9) The term “professional review action” means
18 an action or recommendation of a professional review
19 body which is taken or made in the conduct of profes-
20 sional review activity, which is based on the compe-
21 tence or professional conduct of an individual physi-
22 cian, and which affects (or may affect) adversely the
23 clinical privileges, or membership in a professional so-
24 ciety, of the physician. Such term includes a formal de-
25 cision of a professional review body not to take an

1 action or make a recommendation described in the pre-
2 vious sentence and also includes professional review
3 activities relating to a professional review action. In
4 this Act, an action is not considered to be based on the
5 competence or professional conduct of a physician if
6 the action is based on—

7 (A) the physician's association, or lack or
8 association, with a professional society or asso-
9 ciation,

10 (B) the physician's advertising, charging
11 lower fees, or engaging in other competitive acts
12 intended to solicit business,

13 (C) the physician's participation in prepaid
14 group health plans, salaried employment, or any
15 other manner of delivering health services wheth-
16 er on a fee-for-service or other basis, or

17 (D) a physician's association with, supervi-
18 sion of, delegation of authority to, support for,
19 training of, or participation in a private group
20 practice with, a member or members of a particu-
21 lar class of health care practitioner or profes-
22 sional.

23 (10) The term "professional review activity"
24 means an activity of a health care entity with respect
25 to an individual physician—

1 (A) to determine whether the physician may
2 have clinical privileges with respect to, or mem-
3 bership in, the entity,

4 (B) to determine the scope or conditions of
5 such privileges or membership, or

6 (C) to change or modify such privileges or
7 membership.

8 (11) The term “professional review body” means
9 a health care entity and the governing body or any
10 committee of a health care entity which conducts pro-
11 fessional review activity, and includes any committee
12 of the medical staff of such an entity when assisting
13 the governing body in a professional review activity.

14 (12) The term “Secretary” means the Secretary
15 of Health and Human Services.

16 (13) The term “State” means the 50 States, the
17 District of Columbia, Puerto Rico, the Virgin Islands,
18 Guam, American Samoa, and the Northern Mariana
19 Islands.

20 (14) The term “State licensing board” means,
21 with respect to a physician or health care provider in a
22 State, the agency of the State which is primarily re-
23 sponsible for the licensing of the physician or provider
24 to furnish health care services.

1 SEC. 302. REPORTS AND MEMORANDA OF UNDERSTANDING.

2 (a) ANNUAL REPORTS TO CONGRESS.—The Secretary
3 shall report to Congress, annually during the three years
4 after the date of the enactment of this Act, on the implemen-
5 tation of this Act.

6 (b) MEMORANDA OF UNDERSTANDING.—The Secretary
7 of Health and Human Services shall seek to enter into
8 memoranda of understanding with the Secretary of Defense
9 and the Administrator of Veterans' Affairs to apply the provi-
10 sions of title II of this Act to hospitals and other facilities and
11 health care providers under the jurisdiction of the Secretary
12 or Administrator, respectively. The Secretary shall report to
13 Congress, not later than two years after the date of the en-
14 actment of this Act, on any such memoranda and on the
15 cooperation among such officials in establishing such memo-
16 randa.

17 (f) MEMORANDUM OF UNDERSTANDING WITH DRUG
18 ENFORCEMENT ADMINISTRATION.—The Secretary of
19 Health and Human Services shall seek to enter into a memo-
20 randum of understanding with the Administrator of Drug En-
21 forcement relating to providing for the reporting by the Ad-
22 ministrator to the Secretary of information respecting physi-
23 cians and other practitioners whose registration to dispense
24 controlled substances has been suspended or revoked under
25 section 304 of the Controlled Substances Act. The Secretary
26 shall report to Congress, not later than two years after the

1 date of the enactment of this Act, on any such memorandum
2 and on the cooperation between the Secretary and the Ad-
3 ministrator in establishing such a memorandum.

CMS Library
C2-07-13
7500 Security Blvd.
Baltimore, Maryland 21244

99TH CONGRESS
2D Session

H. R. 5540

[Report No. 99-908, Part I]

A BILL

To encourage good faith professional review activities of health care entities, to require collection and dissemination to hospitals and other health care providers of information concerning certain payments in medical malpractice claims and certain adverse decisions, and for other purposes.

SEPTEMBER 26, 1986

Reported from the Committee on Energy and Commerce and referred to the Committee on the Judiciary for a period ending not later than October 3, 1986 for consideration of such provisions of the bill and amendments as fall within the jurisdiction of that committee pursuant to clause of rule X and ordered to be printed

OCTOBER 3, 1986

Referral to the Committee on the Judiciary extended for an additional period ending not later than October 8, 1986

OCTOBER 8, 1986

Referral to the Committee on the Judiciary extended for an additional period ending not later than 12 noon October 14, 1986

OCTOBER 14, 1986

Committee on the Judiciary discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

